

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DONALD R LaFLAMME,)	
)	
Petitioner,)	No. C 07-5505 VRW (PR)
)	
vs.)	ORDER OF DISMISSAL
)	
M EVANS, Warden,)	(Doc # 2)
)	
Respondent.)	
_____)	

Petitioner, a state prisoner incarcerated at Salinas Valley State Prison, has filed a second or successive petition for a writ of habeas corpus under 28 USC § 2254. His first petition was denied on grounds of procedural default. See LaFlamme v Hubbard, No. C 96-1696 VRW (ND Cal Aug 13, 1997) (order denying petition); see also LaFlamme v Hubbard, No. 97-16973 (9th Cir June 9, 2000) (order affirming district court).

A second or successive petition may not be filed in the district court unless the petitioner first obtains from the appropriate federal court of appeals an order authorizing the district court to consider the petition. 28 USC § 2244(b)(3)(A). Section 2244 applies where, as here, the first petition was denied on grounds of procedural default. See Henderson v Lampert, 396 F3d 1049, 1053 (9th Cir 2005) (denial on procedural default grounds constitutes disposition on merits).

1 Petitioner has not obtained an order from the Ninth Circuit authorizing this
2 court to consider his current petition. The petition accordingly is DISMISSED
3 without prejudice to refiling if petitioner obtains the necessary order.

4 Based solely on petitioner's lack of financial resources, his application to
5 proceed in forma pauperis (doc # 2) is GRANTED.

6 The clerk shall close the file and deny all other pending motions as moot.

7 SO ORDERED.



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9 _____
VAUGHN R WALKER
United States District Chief Judge